

Date: June 27, 2002

To: Chairman Getman and Commissioners Downey, Knox, and Swanson

From: Mark Krausse, Executive Director

### EXECUTIVE DIRECTOR'S REPORT

This is a summary of administrative and division activity since the report sent to you prior to the June Commission meeting.

#### A. PERSONNEL/BUDGET

The Department of Finance has rejected our request for two exemptions from the hiring freeze: an Investigator I and an Accounting Specialist. We have effected temporary transfers of staff among divisions to address workload issues due to this denial and the recent departure of Larry Pheonix, an Enforcement Division Investigator who had been with the Commission for just over a year. Political Reform Consultant Wayne Imberi will assume the Enforcement Division intake assignments of Colleen McGee, who retired effective July 1<sup>st</sup>. Political Reform Consultant Hal Dasinger of the Public Education Unit will move to the Technical Assistance Division to undergo PRC training and help fill the considerable void left by Mr. Imberi's reassignment.

The reduction of 4,000 positions in all state agencies discussed in my last report has been increased by the budget conference committee to 6,000 positions. This number would translate to approximately 6 positions in our agency—a number that I believe can be accomplished from existing vacancies. The July 1, 2002, deadline for identifying our positions with the Department of Finance has been postponed until the final 2002-2003 state budget is enacted.

The Commission welcomes second-year law student Anthony Pane as a volunteer intern in the Legal Division. Anthony has been with the division a short while, but has already distinguished himself with hard work and long hours.

#### B. STAFF PROJECTS AND ACTIVITIES

Opinion Request I have denied a request for opinion made by attorney Tony Miller on behalf of committee treasurer Jan Wasson. Mr. Miller's original advice letter (reconsideration) request dealt with issues of past conduct. His revised opinion request contains questions of general applicability to many candidates and treasurers. For these reasons, I am instead recommending that the matter be considered for resolution through the consideration of a proposed regulation later this summer.

Translation of Forms, Materials For some time now, we have been discussing among Executive staff the issue of translating certain FPPC materials into other languages spoken by a significant number of California residents. A request by Mr. Gary Howell, Chairman of a Cathedral City project area committee, for a Spanish-language version of the Form 700 (Statement of Economic Interests) has prompted us to begin the process of providing joint English/Spanish versions of certain forms.

In researching Mr. Howell's request, I found that the Secretary of State provides voter information materials in six languages in addition to English (Chinese, Japanese, Korean, Spanish, Tagalog, and Vietnamese). These languages are required by the federal Voting Rights Act based upon the number of citizens in the state determined by the Director of the Census to be of voting age who are members of a single language minority and who are limited-English proficient. In addition, I found that many state agencies provide their written materials in multiple languages under the authority provided in the Dymally-Alatorre Bilingual Services Act (Government Code sections 7290-7299.8). Specifically, section 7295.4 provides:

Whenever a state agency finds that the factors listed in both subdivisions (a) and (c) or (b) and (c) exist, it shall distribute the applicable written materials in the appropriate non-English language through its local offices or facilities to non-English-speaking persons, or, as an alternative, the state agency may instead elect to furnish translation aids, translation guides, or provide assistance at such local offices in completing English forms or questionnaires and in understanding English forms, letters or notices.

(a) The written materials, whether forms, applications, questionnaires, letters or notices, solicit or require the furnishing of information from an individual or provide that individual with information.

(b) The information solicited, required or furnished affects or may affect the individual's rights, duties or privileges with regard to that agency's services or benefits.

(c) The local office or facility of the agency with which the individual is dealing, serves a substantial number of non-English-speaking persons.

The term "substantial number of non-English-speaking persons" is defined in G.C. section 7296.2 as "members of a group who either do not speak English, or who are unable to effectively communicate in English because it is not their native language, **and who comprise 5 percent or more of the people served** by any local office or facility of a state agency." [Emphasis added.]

I believe the Commission's forms and materials clearly meet the criteria in paragraphs (a) and (b), and that the criterion of paragraph (c) is satisfied if local agencies who provide filing officer duties for the Commission are the functional equivalent of the Commission's "local offices" for SEI and campaign filing purposes.

While section six of Article III of the state Constitution (approved by the voters as Proposition 63 of 1986) provides that English is the "official language of the State of California," that section's only prohibiting language is that "the Legislature shall make no law which diminishes or ignores the role of English as the common language" of the state. This section has not been the subject of reported appellate court case law, and has not been held to invalidate the Dymally-Alatorre Bilingual Services Act. Moreover, the Legislature has considered numerous

bills over the years to implement Proposition 63 in ways that would limit the government's use of other languages, and each of these measures has failed. (AB 2193 (Margett, 1996); AB 24 (Granlund, 1995); AB 2434 (Mountjoy, 1994); AB 3601 (Knowles, 1992); and AB 2090 (McClintock, 1989))

For these reasons, and because a modest surplus in the Commission's 2001-02 budget was created by our inability to fill vacant positions, I asked the Public Education Unit to solicit the bids of three vendors as provided for in the procedures applicable to the letting of certain small state contracts. I have entered into an agreement with Transcend, a company that provides translation services to the Secretary of State's office, among others. The total cost of the contract, which will provide English/Spanish versions of Forms 410, 460, 501 and 700, and four information pamphlets, is under \$15,000. We will continue to require that the forms be filled out in English.

If next year's budget allows, I recommend that the Commission consider translation of these materials into other languages. We will bring the issue back to the Commission for consideration later this year, as part of the normal planning process for calendar year 2003.

New Enforcement Information You will notice that civil judgments are now being listed in the enforcement section of the agenda. This new practice will give the Commission a way of publicizing finalized civil cases, and give the public a more complete view of the Commission's enforcement activities. Also, in August I will begin including in this report my findings of probable cause in enforcement matters pursuant to the requirement in Regulation 18361 that these findings be announced publicly. This section will include the cautionary statement, required by the regulation, that "the respondent is presumed to be innocent of any violation unless a violation is proved in a subsequent proceeding."

The Public Education Unit The Public Education Unit's test of our new telephone broadcast system during the first part of the Commission's June meeting was a great success. The Commission's July meeting will be the first full telephone broadcast. Interested parties are encouraged to use this new tool to dial-in and listen to Commission meetings they are unable to attend, but are asked to avoid staying connected for portions they are not following since the Commission will be paying a per-minute connect charge for each caller. In addition to its great work on the telephone broadcast system, PEU has completed the second quarter *FPPC Bulletin*, and continues to make progress on new pamphlets and in updating fact sheets.

The Technical Assistance Division Technical Assistance Division personnel provided outreach visits to the cities of Simi Valley, La Mesa, Santee, Escondido, Riverbank, Grover Beach, Buellton, Santa Maria, Lompoc, Atascadero, and Guadalupe, and the counties of San Benito, Santa Cruz, and Sacramento. Conflict-of-interest code seminars were provided in Sacramento and San Diego.

The Legal Division Commission Counsel Scott Tocher spoke to representatives of the countries of Macedonia, Bulgaria and China (Hong Kong) in June regarding the Political Reform Act. Foreign visitors interested in democratic systems and governmental ethics are directed to the Commission from time to time by visitors' bureaus, the United States Department of State, and the state Senate.

C. CONFLICT OF INTEREST CODES/AMENDMENTS

We have received an appeal from attorney Joshua Mackenroth, representing the Mammoth Bar Rider's Association, regarding the state Department of Parks & Recreation's denial of the Association's petition to amend the agency's conflict-of-interest code. The Legal Division is reviewing the appeal and I will report to you on the matter at the August meeting.

Since the last Commission meeting, the agency has approved codes and amendments for the following:

Department of Housing and Community Development  
Paratransit, Inc.  
College of the Sequoia  
Cutler-Orosi Unified School District